APPENDIX 1

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

NO. 95-2980

THOMAS T. SCAMBOS, JR.,

Plaintiff - Appellant,

versus

JACK G., PETRIE, ROBERT WATSON,

Defendants - Appellees,

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria, Albert V. Bryan, Jr., Senior District Judge. (CA-95-321A)

Submitted: April 15, 1996 Decided: April 22, 1996

Before ERVIN and MOTZ, CIRCUIT JUDGES, and CHAPMAN, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Thomas T. Scambos, Jr., Appellant Pro Se. Teresa Ellen McLaughlin, Gary R. Allen, Annette Marie Wietecha, Anthony Thomas Sheehan, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Appellees.

Unpublished opinions are not binding precedent in this circuit, See Local Rule 36 (c)

PER CURIAM:

Appellant appeals from the district court's order dismissing with prejudice appellant's action alleging violations of the Internal Revenue Code and denying his motion for relief under Fed. R. Civ. P. 52, 59 (e). We have reviewed the record and the district court's opinions and find no reversible error. accordingly, we affirm on the reasoning of the district court. Scambos v. Petrie, No. CA-95-321-A (E.D. Va. July 24, 1995; Sept, 12, 1995). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

APPENDIX 2

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

THOMAS T. SCAMBOS, JR., Pro se,]

Plaintiff]

] Civil Action No.

ROBERT WATSON, and] 95-321 A
JACK G. PETRIE,]

Defendants,]

ORDER

Upon consideration of the plaintiff's motion for findings of fact under Rule 52 and th alter or amend under Rule 59 (e), it is hereby

ORDERED that the motion is denied. Under Rule 52, there is no requirement for findings of fact when a complaint is dismissed for failure to state a claim upon which relief may be granted. There are no other bases for altering or amending under Rule 59 (e).

s/ _____
United States District Judge

Alexandria, Virginia
September 8, 1995

APPENDIX 3

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

THOMAS T. SCAMBOS, JR., Pro se,	]	
Plaintiff	]	
	]	Civil Action No.
ROBERT WATSON, and	]	95-321 A
JACK G. PETRIE,	]	
Defendants,	]	

ORDER

For the reasons set forth in the Memorandum Opinion this day filed it is hereby ORDERED that:

1. Defendants' motion to dismiss the complaint is granted.

2. Plaintiff's motion for a more definite statement is denied.

3. Plaintiff's motion to determine the authority of the justice department to represent defendants is denied.

4. This action is dismissed with prejudice.

s/_____
United States District Judge

Alexandria, Virginia
July 21, 1995

APPENDIX 4

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

THOMAS T. SCAMBOS, JR., Pro se,	]	
Plaintiff	]	
	]	Civil Action No.
ROBERT WATSON, and	]	95-321 A
JACK G. PETRIE,	]	
Defendants,	]	

MEMORANDUM OPINION

This action is before the court on defendants' 12 (b) (6) motion to dismiss. In addition, plaintiff has filed a motion for a more definite statement of defendants' motion to dismiss and the accompanying memorandum and a motion to determine the authority of the justice department to represent defendants. Plaintiff pro se has been has been notified of defendants' motion, his opportunity to respond and he as done so.

Plaintiff filed a complaint styled a "Complaint for Violation Of Federal Law" charging the two named defendants with willful violations of their duties owed to the plaintiff. Defendant "Robert Watson is a revenue officer in the Collection Division of the Internal Revenue Service ("IRS"). Defendant Jack Petrie, now retired from the IRS, was a District Director. The complaint is filed under the authority of Title 28 U.S.C. §

1361 which gives district courts jurisdiction to hear claims filed "in the nature of mandamus." In the complaint, plaintiff alleges that documents presented to him titled, Notice of Intent to Levy, Notice of Deficiency, and Notice of Levy were defective. Plaintiff claims defendants breached their duty to plaintiff pursuant to § 1361 because the documents were not properly executed and only one was signed and that signature was illegible. Furthermore, plaintiff contends that defendants' failed to correct the defects when plaintiff gave them the opportunity. Plaintiff contends that the laws as they are written clearly show that defendants were operating outside the scope of their employment. Therefore, plaintiff requests that defendants be sued in their individual capacity and denied representation by the justice department.

Liberally construed, plaintiff seeks a declaratory judgment that the agents of the IRS have imprecisely executed the Notice of Intent to levy, Notice of Deficiency, and Notice of Levy. The technical omissions and defects of which the plaintiff complains do not state facts supporting a claim upon which relief can be granted. Accordingly, in a separate order, defendants' motion to dismiss will be granted. The court need not reach the issues presented in plaintiff's motion for a more definite statement of defendants' motion to dismiss and the accompanying memorandum and a motion to determine the authority of the justice department to represent defendants.

s/ _____
United States District Judge

Alexandria, Virginia
July 21, 1995